

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

May 3, 2005

PUBLIC UTILITIES COMMISSION  
Maine Telecommunications Education  
Access Fund

ORDER

REISHUS, Chairman; DIAMOND, Commissioner

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**I. SUMMARY**

In this Order we approve the Maine Telecommunications Education Access Fund (MTEAF) Advisory Board's recommendations to the Commission, made pursuant to Chapter 285 § 6(B), concerning the operation of the MTEAF from July 2005 through June 2006.

**II. APPROVAL OF MTEAF PROGRAM ELEMENTS FOR 2005 – 2006**

Title 35-A M.R.S.A. § 7104-B(4) provides that MTEAF funds must be used to provide discounts to qualified schools and libraries for the following: telecommunications services; Internet access; internal connections; computers; training; and content. Chapter 285 § 6(B) of our Rules requires the MTEAF Advisory Board to recommend to us annually the services that should be funded for the upcoming year, the funding level, and the overall amount to be assessed by carriers. Based on the recommendation of the Board, we approve the following program elements for operating the MTEAF from July 1, 2005 through June 30, 2006.

**A. Basic Program Elements**

We continue to fund sufficient bandwidth and Internet service at no cost to all qualified schools and libraries pursuant to 35-A M.R.S.A. § 7104-B(1). This includes 56 Kbps and T-1 frame relay connections and DSL connections. We also continue to provide funding for ATM sites, Circuit Riders, Alternative Equivalent Value, and Fogler Library databases as further described below. We expect the Board to upgrade the level of connection for those sites needing increased bandwidth, within the available funding.

**B. Assessments by Carriers**

Title 35-A M.R.S.A. § 7104-B(3)(A) currently requires the Commission to annually establish an amount of up to 0.5% of retail charges, to be collected by intrastate carriers for the MTEAF. Chapter 285 § 2(B) requires the Commission, in establishing the amount to be collected, to consider the needs of schools and libraries, the amount collected in the previous year and the impact on ratepayers, particularly when integrated with any State Universal Service Fund.

The Legislature is currently considering an amendment to this section that would allow the Commission to increase the assessment to up to .7%. The Utilities and Energy Committee recently voted in favor of this amendment. The Board recommends that the Commission approve a .5% assessment, and a .7% assessment if the legislation is signed into law. An assessment of .5% produces approximately \$2.9 million. A .6% assessment will result in enough funds to cover all current costs and contribute \$500,000 toward the cost of databases procured by the University of Maine Fogler Library. The Board has recently renegotiated contracts with Verizon and UNET which have lowered the monthly costs paid for both connections and Internet service. During the past four years, Federal E-Rate funds have not been received until after the associated funding year, resulting in the need to pay vendors upfront the Federal E-Rate share. The Board requests the assessment be increased to the full .7% to provide for some cushion in the event it continues to need to make payments prior to the receipt of E-Rate funds. The Board expects it will be able to reduce the assessment in 2006-2007, if E-Rate payments become more timely.

Effective July 1, 2005, we will approve an assessment of .5%, or a .7% assessment if the pending legislation becomes law. We will monitor the MTEAF cash flow this year and attempt to reduce the assessment beginning in July 2006. All intrastate carriers also currently contribute to a Universal Service Fund at a rate of 1.50% (or 0.0150) of each carrier's intrastate retail revenues, pursuant to Chapter 288 § 4(6). We prefer to keep the MTEAF assessment as low as possible, given this additional USF assessment. However, to provide support for essential services to schools and libraries and given the delays in receiving Federal E-Rate funding, we find it necessary to assess carriers at the maximum level of .5%, or, .7% if permitted by law.

C. Innovative and Technologically Advanced Program

Title 35-A M.R.S.A. § 7104-B(5) requires that "[a] minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced." We will continue to meet this requirement in the year 2005-2006 in a number of ways. Our funding for ATM connections for schools and libraries supports an innovative and technologically advanced service. Funding of DSL technology and financial support for the Fogler databases also meet this criterion.

D. Circuit Riders

The MSLN currently supports three "circuit riders" who are available by phone, e-mail, and onsite visits to assist schools and libraries. Feedback on this program has continued to be extremely positive, especially for small schools and libraries. The Board proposes continuation at a cost of \$239,939 annually. We agree with the Board that the MTEAF should continue to fund this service.

E. Raymond H. Fogler Library at the University of Maine – Digital Library

We will pay \$500,000 in 2005 – 2006 to allow Fogler Library to provide access to electronic databases to citizens statewide, contingent on the Legislature increasing the assessment to up to .7%.

F. Asynchronous Transfer Mode (ATM)

Approximately 91 high schools have ATM connections for voice, data (instead of a T-1 line) and video. These sites pay \$2,075 per month for this service and each site applies for Federal E-Rate (with discounts ranging from 20% to 90%). Because the sites use their ATM in lieu of a T-1, we have provided financial support from MSLN funds to cover some costs not paid for by Federal E-Rate. The Commission chose \$358 per month as an estimate of half the amount remaining after applying the average school E-Rate discount. The average E-Rate discount for these high schools is 66%. Therefore, \$358 continues to represent approximately half the amount owed after E-Rate is applied.

Beginning in 2001, we also agreed to provide financial support for elementary and middle schools that are close enough to an ATM site that they can share the connection. These are sites that otherwise would have been eligible for their own T-1 or 56 Kbps. We agreed with the Board's recommendation that these shared sites continue to receive MTEAF funds in the amount for which they would otherwise be eligible, up to an amount not to exceed the monthly cost of the ATM connection where all the sites' credits are taken together.

The total cost for ATM support in 2005-2006 is expected to be \$450,000. We agree with the Board's recommendation that this support should continue.

G. Alternative Equivalent Value

The Board recommends that the Commission continue to authorize the Board to approve AEV requests for services that provide equivalent or greater quality of service, with reimbursements at no more than the amount for which the site would ordinarily be eligible (56 or T-1) after the Federal E-Rate MSLN Consortium discount is applied. The Board will also condition AEV on the site applying for Federal E-Rate for the service. We agree and authorize the Board to approve such requests.

H. Fund Administration

We authorize the expenditures of funds to pay for a fund administrator to assess carriers, collect funds from carriers and make payments from the Fund. We also authorize the board to hire a consultant to help with the E-Rate application process. The consultant will review current practices, assist with the filing of the 2006 applications, manage any reviews currently pending and suggest process improvements.

I. Libraries Choosing Not to Filter

In 2004, the Legislature amended 35-A M.R.S.A. § 7104-B(6) to allow public libraries to decline Federal E-Rate for Internet service if they determine that applying for E-Rate (e.g., complying with E-Rate's filtering requirements) would substantially compromise the library's standards or mission. The statute allows the Commission to mitigate the loss of Federal E-Rate funds using MTEAF funds.

For the 2004-2005 program year, we agreed that the libraries would contribute \$25 per month and the MTEAF would pay \$59 per month toward the cost of Internet service that would not be eligible for Federal E-Rate. Approximately 50 libraries chose this option. Under the UNET contract effective July 1, 2005, Internet service will cost \$125 per month. We continue to allow the fund to pay for amounts not covered by Federal E-Rate with the library contributing \$25 per month. The Board expects this will cost the Fund \$38,500 per year.

**III. DELEGATION**

We delegate to the Chair of the Advisory Board the authority to direct the MTEAF fund administrator to make disbursements from the fund consistent with this Order.

Dated at Augusta, Maine, this 3<sup>rd</sup> day of May 2005.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Reishus  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

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